

## Nuclear Regulatory Commission

## § 72.42

to minimize danger to life or property are adequate;

(6) Except for DOE, the applicant for an ISFSI or MRS is financially qualified to engage in the proposed activities in accordance with the regulations in this part;

(7) The applicant's quality assurance plan complies with subpart G;

(8) The applicant's physical protection provisions comply with subpart H. DOE has complied with the safeguards and physical security provisions identified in § 72.24(o);

(9) The applicant's personnel training program complies with subpart I;

(10) Except for DOE, the applicant's decommissioning plan and its financing pursuant to § 72.30 provide reasonable assurance that the decontamination and decommissioning of the ISFSI or MRS at the end of its useful life will provide adequate protection to the health and safety of the public;

(11) The applicant's emergency plan complies with § 72.32;

(12) The applicable provisions of part 170 of this chapter have been satisfied;

(13) There is reasonable assurance that: (i) The activities authorized by the license can be conducted without endangering the health and safety of the public and (ii) these activities will be conducted in compliance with the applicable regulations of this chapter; and

(14) The issuance of the license will not be inimical to the common defense and security.

(b) A license to store spent fuel and reactor-related GTCC waste in the proposed ISFSI or to store spent fuel, high-level radioactive waste, and reactor-related GTCC waste in the proposed MRS may be denied if construction on the proposed facility begins before a finding approving issuance of the proposed license with any appropriate conditions to protect environmental values. Grounds for denial may be the commencement of construction prior to a finding by the Director, Office of Nuclear Materials Safety and Safeguards or designee or a finding after a public hearing by the presiding officer, Atomic Safety and Licensing Board, or the Commission acting as a collegial body, as appropriate, that the action called for is the issuance of the pro-

posed license with any appropriate conditions to protect environmental values. This finding is to be made on the basis of information filed and evaluations made pursuant to subpart A of part 51 of this chapter or in the case of an MRS on the basis of evaluations made pursuant to sections 141(c) and (d) or 148(a) and (c) of NWSA (96 Stat. 2242, 2243, 42 U.S.C. 10161(c), (d); 101 Stat. 1330-235, 1330-236, 42 U.S.C. 10168(a), (c)), as appropriate, and after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives.

(c) For facilities that have been covered under previous licensing actions including the issuance of a construction permit under part 50 of this chapter, a reevaluation of the site is not required except where new information is discovered which could alter the original site evaluation findings. In this case, the site evaluation factors involved will be reevaluated.

[53 FR 31658, Aug. 19, 1988, as amended at 66 FR 51840, Oct. 11, 2001]

### § 72.42 Duration of license; renewal.

(a) Each license issued under this part must be for a fixed period of time to be specified in the license. The license term for an ISFSI must not exceed 20 years from the date of issuance. The license term for an MRS must not exceed 40 years from the date of issuance. Licenses for either type of installation may be renewed by the Commission at the expiration of the license term upon application by the licensee and pursuant to the requirements of this rule.

(b) Applications for renewal of a license should be filed in accordance with the applicable provisions of subpart B at least two years prior to the expiration of the existing license. Information contained in previous applications, statements, or reports filed with the Commission under the license may be incorporated by reference: Provided, that such references are clear and specific.

(c) In any case in which a licensee, not less than two years prior to expiration of its existing license, has filed an application in proper form for renewal of a license, the existing license shall

not expire until a final decision concerning the application for renewal has been made by the Commission.

**§ 72.44 License conditions.**

(a) Each license issued under this part shall include license conditions. The license conditions may be derived from the analyses and evaluations included in the Safety Analysis Report and amendments thereto submitted pursuant to § 72.24. License conditions pertain to design, construction and operation. The Commission may also include additional license conditions as it finds appropriate.

(b) Each license issued under this part shall be subject to the following conditions, even if they are not explicitly stated therein:

(1) Neither the license nor any right thereunder shall be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and give its consent in writing.

(2) The license shall be subject to revocation, suspension, modification, or amendment in accordance with the procedures provided by the Atomic Energy Act of 1954, as amended, and Commission regulations.

(3) Upon request of the Commission, the licensee shall, at any time before expiration of the license, submit written statements, signed under oath or affirmation if appropriate, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(4) The licensee shall have an NRC-approved program in effect that covers the training and certification of personnel that meets the requirements of subpart I before the licensee may receive spent fuel and/or reactor-related GTCC waste for storage at an ISFSI or the receipt of spent fuel, high-level radioactive waste, and/or reactor-related GTCC waste for storage at an MRS.

(5) The license shall permit the operation of the equipment and controls that are important to safety of the

ISFSI or the MRS only by personnel whom the licensee has certified as being adequately trained to perform such operations, or by uncertified personnel who are under the direct visual supervision of a certified individual.

(6)(i) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title II (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101(2)) of the licensee.

(ii) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

(c) Each license issued under this part must include technical specifications. Technical specifications must include requirements in the following categories:

(1) *Functional and operating limits and monitoring instruments and limiting control settings.* (i) Functional and operating limits for an ISFSI or MRS are limits on fuel or waste handling and storage conditions that are found to be necessary to protect the integrity of the stored fuel or waste container, to protect employees against occupational exposures and to guard against the uncontrolled release of radioactive materials; and

(ii) Monitoring instruments and limiting control settings for an ISFSI or MRS are those related to fuel or waste handling and storage conditions having significant safety functions.

(2) *Limiting conditions.* Limiting conditions are the lowest functional capability or performance levels of equipment required for safe operation.

(3) *Surveillance requirements.* Surveillance requirements include:

(i) Inspection and monitoring of spent fuel, high-level radioactive waste, or reactor-related GTCC waste in storage;